IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

WP(C).No. 34679 of 2007(C)

PETITIONER:

MARIAMMA VARKEY
UD TYPIST, MI DIVISION,
DIVISIONAL OFFICE,
PATHANAMTHITTA.

BY ADV. SRI.S.MUHAMMED HANEEFF

RESPONDENTS:
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1. **SPECIAL DEPUTY TAHSILDAR**
   (RR) KSFE LTD, KOLLAM.

2. **THE EXECUTIVE ENGINEER,**
   MINOR IRRIGATION DEVELOPMENT,
   DIVISIONAL OFFICE, PATHANAMTHITTA.

3. **THE ASSISTANT EXECUTIVE ENGINEER**
   MINOR IRRIGATION DEPARTMENT
   DIVISIONAL OFFICE, PATHANAMTHITTA.

4. **THANKAMMA,C/O.A.R.AMBILY**
   K.L.P.QUARTERS, KALANJOOR,
   PATHANAMTHITTA. 689 645.

5. **A.R.AMBILY,UD CLERK,**
   MINOR IRRIGATION SUB DIVISION
   PATHANAMTHITTA. 689 645.

BY ADV. SRI.ASOK M.CHERIYAN, SC, K.S.F.E. LTD.
BY GOVERNMENT PLEADER SRI.BEJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

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W.P.(C)No.34679 of 2007

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Dated this the 29th day of November 2007

JUDGMENT

The petitioner is a UD Typist working in the M.I.Divisional Office, Pathanamthitta. She stood as a surety of the 4th respondent who bid a chit conducted by the KSFE, for an amount of Rs.2 lakhs. The 5th respondent - the daughter of the 4th respondent, who is also working in the same office as the 4th respondent, stood as the other surety. Apparently, there was default in the repayment of the loan by the 4th respondent and now Ext.P1 prohibitory order has been issued by the Deputy Tahsildar of the KSFE seeking attachment of the petitioner's salary to the extent of Rs.3000/=. Petitioner is aggrieved by the same.

2. In my view, in circumstances where the petitioner is a surety and the 4th respondent was also a government employee coupled with the fact that the 5th respondent daughter is also a government employee, it would have been more proper for the creditor to ascertain the possibility of recovery from the salary or other assets of the principal debtor and the 5th respondent, who is the daughter of the principal debtor.

3. After having heard the learned counsel for the KSFE also, the writ petition is disposed of in the following terms:

1) Additional 6th respondent (impleaded as per order in I.A.15761/2007) shall issue a notice to the petitioner and respondents 4 and 5 asking all of them to appear before him and then proceed to draw up a proceeding laying down the manner in which the repayment of the balance amount due should be effected. The 5th respondent is still in service. I make it clear it is not my intention to observe that the liability of the petitioner is in any manner diluted or that the right of the creditor to proceed against both the Principal debtor and the surety at the same time is also in any manner abridged by this direction. The aforementioned proceedings shall be completed within a period of three weeks from the date of receipt of a copy of this judgment. Attachment of the petitioner's salary as ordered under Ext.P1 shall be kept in abeyance till orders are passed in the manner aforementioned.

V.GIRI, JUDGE

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